

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CALVIN B. CLARK, Individually

Plaintiff,

v.

THE CITY OF TACOMA, a Municipal
Corporation; TACOMA POLICE
DEPARTMENT; and JOHN DOE
TACOMA POLICE OFFICERS 1-5,
Defendants.

NO. 3:11-CV-5246

(Superior Court of the State of
Washington County of Pierce
No. 11-2-05714-9)

NOTICE OF REMOVAL OF ACTION
FROM STATE COURT

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441(b),
defendants hereby remove this action from the Superior Court of the State of
Washington, County of Pierce, to the United States District Court to the
Western District of Washington at Tacoma. Defendants appear solely for the

NOTICE OF REMOVAL OF ACTION
FROM STATE COURT - Page 1 of 3

Tacoma City Attorney
Civil Division
747 Market Street, Room 1120
Tacoma, Washington 98402-3767
(253) 591-5885 / FAX 591-5755

1 purpose of removal and for no other purpose, reserving all other defenses
2 available to defendant and alleges on information and belief as follows:

3 1. Plaintiff filed the above-captioned action against defendant City of
4 Tacoma in the Superior Court of the State of Washington, County of Pierce, on
5 January 24, 2011. The defendant was served with a copy of the Complaint on
6 March 3, 2011, a copy of which is attached hereto as Exhibit A.

7 2. This Notice of Removal is being filed within 30 days after the first
8 receipt by the defendant of the Complaint and thus is timely filed pursuant to
9 28 U.S.C. § 1446(b).

10 3. This is a civil action for which the United States District Court has
11 original jurisdiction pursuant to 28 U.S.C. §1331, as plaintiff, Calvin Clark, has
12 asserted a violation of his civil rights as secured by federal law.

13 4. Plaintiff has also asserted various state tort actions. Defendant
14 requests that all claims be removed from the Superior Court of the State of
15 Washington, County of Pierce, and that this Court exercise supplemental
16 jurisdiction over these claims pursuant to 28 U.S.C. § 1367(a) and 28 U.S.C.
17 §1441(c).

18 5. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings,
19 and orders served upon defendant to date are attached.

20 6. The defendant will promptly file a copy of this Notice in the
21 Superior Court of the State of Washington, County of Pierce, and will serve a
22 copy of the same on the plaintiff in accordance with 28 U.S.C. § 1446(d).

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26 NOTICE OF REMOVAL OF ACTION
FROM STATE COURT - Page 2 of 3

Tacoma City Attorney
Civil Division
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Tacoma, Washington 98402-3767
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1 WHEREFORE, the defendant gives notice that the above-captioned
2 action commenced against it in the Superior Court of the State of Washington,
3 County of Pierce, has been removed to this Court.

4 DATED this 29th day of March, 2011.

5 ELIZABETH A. PAULI, City Attorney

6
7 By: 

8 JEAN P. HOMAN
9 WSBA# 27084
10 Deputy City Attorney
11 Attorney for Defendants
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26 NOTICE OF REMOVAL OF ACTION
FROM STATE COURT - Page 3 of 3

Tacoma City Attorney
Civil Division
747 Market Street, Room 1120
Tacoma, Washington 98402-3767
(253) 591-5885 / FAX 591-5755

EXHIBIT A

RECEIVED

MAR 03 2011

TACOMA CITY ATTORNEY
CIVIL DIVISION

VIA GREG
WILLIAMS OFFICE
3:29
Service accepted
by Cheryl Comer
JD

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

CALVIN B. CLARK, Individually,

Plaintiff,

v.

THE CITY OF TACOMA, a Municipal
Corporation; TACOMA POLICE
DEPARTMENT; and JOHN DOE TACOMA
POLICE OFFICERS 1-5,

Defendants.

NO: 11-2-05714-9

COMPLAINT FOR DAMAGES

COME NOW the Plaintiff, by and through Gregory A. Williams of Law Office of Gregory A. Williams, P.S., Inc., his attorney of record, by and through this complaint alleges and claims the following:

JURISDICTION, VENUE AND ADMINISTRATIVE PREREQUISITES

1. Personal and subject matter jurisdiction are proper in Pierce County Superior Court.

2. The events giving rise to this lawsuit occurred in Pierce County, Washington.

Venue is properly laid in Pierce County Superior Court.

COMPLAINT FOR DAMAGES – Page 1 of 8
CLARKc.complaint

LAW OFFICE
OF
GREGORY A WILLIAMS, PS, INC
ATTORNEY AND COUNSELOR AT LAW
1315 So. L Street ♦ Tacoma, WA 98405
(253) 396-9000 ♦ Fax (253) 396-9005
W S B A #35505
www.gawlaw.org

4. Plaintiff Calvin Clark (Mr. Clark) is a citizen of the State of Washington, county of Pierce, and resides in Tacoma, Washington.

5. The Defendant, City of Tacoma, is a governmental entity with the right to sue and be sued in its own name and stead.

FACTS

1 7. On or about January 24, 2007, at approximately 8:30 PM, Mr. Clark and his wife
2 were returning home after visiting a relative. Their 16 year-old disabled son was home alone at
3 the time.

4 8. As Mr. and Mrs. Clark approached their home preparing to pull into their
5 driveway, Mr. Clark noticed a bright light shining into his face. A police officer approached
6 asking Mr. Clark loudly, "Are you Calvin Clark?" Mr. Clark then noticed a shotgun point
7 directly at his face.

8 9. The police officer ordered Mr. Clark and his wife to place their hands on the dash.
9 Soon afterwards, the police then ordered Mr. Clark to step out of their vehicle and place his
10 hands on the hood of said vehicle. Another police officer then ordered Mr. Clark's wife to step
11 out of their vehicle and place her hands on the hood of said vehicle.

12 10. Police officers then handcuffed and searched both Mr. Clark and his wife and
13 confiscated all of their personal belongings. Mr. Clark and his wife were then led into their
14 home where they were seated in the living room.

15 11. At that time, their 16 year old disabled son was brought into the room and seated
16 alongside Mr. Clark's wife where he was handcuffed as well.

17 12. After approximately 30 minutes of destructively searching Mr. Clark's home, Mr.
18 Clark's wife was taken outside and questioned for approximately 5 minutes. After the police
19 completed their questioning, Mr. Clark's wife was accompanied back into the living room and
20 Mr. Clark was taken outside to be questioned. He was asked questions pertaining to any
21 knowledge he might have regarding a Mr. Jordan. At no time did Defendants John Doe Police
22 Officers No. 1-5 present a search warrant to Mr. Clark.

1 13. Police stated to Mr. Clark that a Mr. Jordan alleged that Mr. Clark was supplying
2 Mr. Jordan with cocaine, and that Mr. Clark was in possession of cocaine. Mr. Clark denied any
3 knowledge, involvement, or possession. Mr. Clark then refused to answer any further questions
4 and demanded to speak to an attorney.

5 14. After Mr. Clark demanded to speak to an attorney, Defendants John Doe Police
6 Officers No. 1-5 became annoyed and agitated and returned Mr. Clark to his living room. A
7 Defendant police officer that was keeping watch over Mr. Clark, his wife, and his son, then
8 demanded of Mr. Clark, "Where's it at!?"

9 15. Subsequently, Defendant John Doe Police officer #1 asked Mr. Clark if there was
10 a safe in the house. Mr. Clark acknowledged that there was a safe and communicated to
11 Defendant John Doe Police officer #1 that the combination and key to the safe was stored in a
12 brown envelope on the top shelf in the master bedroom closet.

13 16. However, Defendants John Doe Police Officers No. 1-5 chose not to acquire the
14 combination or key; instead, Mr. Clark heard Defendant John Doe Police officer #1 inform other
15 John Doe Police officers to "bust the safe out of the basement [brick] support wall." Mr. Clark
16 then could hear what sounded like a sledge hammer hitting a concrete wall, and stated to a
17 Defendant John Doe Police officer #1, "You don't have to rip up my walls, I told you where the
18 keys and combination were." Defendants John Doe Police Officers No. 1-5 completely ignored
19 Mr. Clark's request unreasonably causing tens of thousands of dollars worth of damage to his
20 house.

21 17. As the police search continued, Mr. Clark could hear his family's personal items
22 unreasonably and unnecessarily being thrown to the ground, broken, and torn to pieces by

Defendants John Doe Police Officers No. 1-5, to include irreplaceable family pictures. This caused Mr. Clark severe emotional distress.

18. Defendants John Doe Police Officers No. 1-5 failed to conduct a search of Mr. Clark's residence in a reasonable manner and wantonly caused substantial unnecessary damage to his property; Defendants John Doe Police Officers No. 1-5 failed to conduct their search so as to do the least damage to Mr. Clark's property consistent with a thorough investigation.

19. After approximately two hours, Mr. Clark was ordered to stand up. A police officer snidely stated to Mr. Clark, "I hope you didn't think you were staying home tonight." Mr. Clark was then accompanied to a police car and taken to the County-City building where he was subsequently booked and charged; he remained in jail for 16 hours until he posted bail. This caused Mr. Clark severe emotional distress, humiliation, and embarrassment.

20. On August 26, 2009, the Pierce County Superior Court ruled that there was no probable cause for the search warrant of January 24, 2007 to have been issued, and ordered all evidence obtained as a result of the search of Mr. Clark's residence as described herein and all evidence derived therefrom suppressed.

21. Subsequently, on August 26, 2009, the State moved for and received an order of dismissal with prejudice of all criminal charges associated with the incidents herein against Mr. Clark.

DAMAGES

22. As a direct and proximate result of the breaches of Defendants as outlined above, Plaintiff suffered severe injuries and damages including, without limitation, physical and

emotional injuries, costs for treating such injuries, pain and suffering and other consequential damages all of which have continued into present and will continue into the future.

CLAIMS AND CAUSES OF ACTION

VIOLATION OF 42 U.S.C. §1983:

23. Plaintiff incorporates all prior assertions in this Complaint as the proximate cause of Plaintiff's injuries.

24. Defendants had a duty under 42 U.S.C. §1983 to avoid conducting an unreasonable search and seizure of Plaintiff's property pursuant to the Fourth Amendment and Fourteenth Amendment to the United States Constitution.

25. Defendant City violated 42 U.S.C. §1983 when it showed a deliberate indifference to Plaintiff's police department complaint and Plaintiff's City of Tacoma Claim for Damages and ratified the conduct of John Doe Police Officers 1-5.

26. Defendant John Doe Police Officers No. 1-5 violated 42 U.S.C. §1983 when they conducted a search of Plaintiff's residence in an unreasonable manner and wantonly caused substantial unnecessary damage to his property; and when Defendant John Doe Police Officers No. 1-5 failed to conduct their search so as to do the least damage to Plaintiff's property consistent with a thorough investigation.

27. As a result of Defendants' violation of 42 U.S.C. §1983 Plaintiff suffered injury, emotional distress, severe pain, humiliation, and embarrassment.

MALICIOUS PROSECUTION:

28. Plaintiff incorporates all prior assertions in this Complaint as the proximate cause of Plaintiff's injuries.

29. The actions of Defendants constituted malicious prosecution.

**TRESPASS; TRESPASS TO LAND; TRESPASS TO CHATTELS; AND
CONVERSION:**

30. Plaintiff incorporates all prior assertions in this Complaint as the proximate cause of Plaintiff's injuries.

31. The actions of Defendants constituted trespass, trespass to land, trespass to chattels, and conversion.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS/ OUTRAGE:

32. Plaintiff incorporates all prior assertions in this Complaint as the proximate cause of Plaintiff's injuries.

33. The actions of Defendants constitute outrageous conduct.

NEGLIGENCE & NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS:

34. Plaintiff incorporates all prior assertions in this Complaint as the proximate cause of Plaintiff's injuries.

35. The actions of Defendants constituted negligence and negligent infliction of emotional distress.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against each of the Defendants as follows:

36. Awarding Plaintiff special damages as shall be established at time of trial;

37. Awarding Plaintiff general damages as shall be established at time of trial;

38. Awarding Plaintiff punitive damages as allowed by law;

39. Awarding Plaintiff incidental and consequential damages at time of trial;

1 40. Awarding Plaintiff attorney's fees, interest, costs, and such other and further relief
2 as shall be allowed by law or deemed just and equitable.

3
4 Dated this 20th day of January, 2011.

5
6 LAW OFFICE OF
7 GREGORY A. WILLIAMS, P.S., INC.

8 BY: s/Gregory A. Williams
9 Gregory A. Williams, WSBA #35505
10 Attorney for Plaintiff

Complaint to the TPD

26Aug2010

January 25, 2008 TPD Drug Taskforce led by Pat Stephens #436, busted into my home and while my 16 year old Special Ed son home alone. He answered the normally used door they burst through the door that we never used and slammed him to the floor by three officers without identifying themselves. My wife, Arlene and I returned from visiting our grandkids and upon arrival we were halted at my driveway with a rifle pointed in our faces by the TPD, frisked, cuffed (also complaining that they were too tight and my shoulders were hurting), and then taken into the house where My wife, Son and I were sat in my living room. They never doubled the cuffs, like for a guy my size. The rest of the charade of police officers were demolishing my home and personal property and also was asked if I had a safe and where it was; I respectfully answered and also told officer Stevens where it was and also where the key and combination were. I asked what are they looking for and Stevens replied that they were looking for cocaine. I don't know the first thing about cocaine I said; he ordered them to bust my safe out of my basement (BRICK) support wall. (Which created damage to the entire wall and also on the opposite wall several stairs was damaged. (The receipts are attached). They put me in jail for 16 hours that drove me CRAZY! After posting bail, I was restricted to Tacoma until the case was completed, which altered my traveling schedule. I attended court for almost two (2) years. During that time officers from the Taskforce would set up meetings often and would try to make deals through my lawyer Ephraim Benjamin for me to do fowl things like buy or sell dope on the street to anyone even if I set someone up, and also tried to make me sell drugs to a known drug dealer that they were after, which I refused. I asked "what are you

EXHIBIT # A

trying to get my family and myself killed", they were intimidating and un professional, accused of being a Drug lord Mastermind. I have never been so violated in my life.

I am a business owner / citizen and tax payer in Tacoma, at my home for 13 years, drummer for my church and a Disabled Military Police War Veteran, accommodated highly during Desert Storm/Shield.

I don't know the first thing about drugs. Charges were overturned by another Judge. There were NO drugs or probable cause to burst into my home. 2 of my vehicles and property was taken from my home, they took all of my cash from my business. I got it all back now that the case is completed. I was violated and my character defamed. I had to borrow money from my uncle to repair my home (promissory note and also pictures are attached).

I am a firm believer of the law but my family was wronged. I am sorry for the taxpayer's waste of time and money.

Respectfully Presented

Calvin Clark

8436 East G St

Tacoma, Wa . 98445

253-640-2640

CITY OF TACOMA CLAIM FOR DAMAGES FORM

General Liability Claim Form

For Official Use Only

Pursuant to Chapter 4.96 RCW, this form is for filing a claim against the City of Tacoma. Some of the information requested on this form is required by RCW 4.96.020 and may be subject to public disclosure. Pursuant to the new law, Claim for Damages forms cannot be submitted electronically (via e-mail or fax).

PLEASE TYPE OR PRINT IN INK

Mail or deliver original claim to:

City of Tacoma
City Clerk's Office
747 Market Street, Suite 220
Tacoma, WA 98402

Business Hours: Mon. - Fri. 8:00 a.m. - 5:00 p.m. Closed on weekends and holidays.

CLAIMANT INFORMATION

1. Claimant's name: Clark Calvin Bernard 02/12/1966
Last name First Middle Date of birth (mm/dd/yyyy)
2. Current residential address: 8436 East "G" ST.
3. Mailing address (if different): Tacoma, Wa. 98445
4. Residential address at the time of the incident (if different from current address):
Same
5. Claimant's daytime telephone number: 253-640-2640
Home Business
6. Claimant's e-mail address: cbclark5@comcast.net

INCIDENT INFORMATION

7. Date of the incident: 01/25/2008 ^{approx.} Time: 8:30 ☐ a.m. ☒ p.m.
(mm/dd/yyyy) (check one)
8. If the incident occurred over a period of time, date of first and last occurrences:
from 01/25/2008 Time: ☐ a.m. ☐ p.m. to 08/26/2007 Time: ☐ a.m. ☐ p.m.
(mm/dd/yyyy) (check one) (mm/dd/yyyy) (check one)
9. Location of incident: Wa. Pierce Tacoma Above Address
State and county City, if applicable Place where occurred
10. If the incident occurred on a street or highway:
East "G" ST. Tacoma, Wa. Same address
Name of street or highway At the intersection with or nearest intersecting street
11. City agency or department allegedly responsible for damage/injury: Tacoma PD, Drug Unit
12. Names, addresses, and telephone numbers of all persons involved in or witness to this incident:
Wife - Arlene Clark, same address, 253-988-9817
Stepson - Darrin Searight, "

EXHIBIT # B

13. Names, addresses and telephone numbers of all City employees having knowledge about this incident:

Ephraim Benjamin, 253-229-5486

14. Names, addresses, and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant's resulting damages. Please include a brief description as to the nature and extent of each person's knowledge. Attach additional sheets if necessary.

Pat Stevens #436 officer in Charge
of the raid

15. Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

I was put in handcuffs (1 pair) at 297 lbs. I asked
to be doubled with (2 pair) because my shoulders and
also Rotator Cuffs were hurting; but didn't and they
still bother me today. I was treated by American
Lake Va hospital for Veterans. My son Darrin suffered
mental problems and was seen by Greater Lakes Mental
health where he was put on meds. My wife is still
traumatized by the shot guns that were pointed in our faces.

16. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom? ^{(see} Attach.

Yes, I sent a complaint to the office of the
Chief of Police on 26 Aug 2010

17. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

American Lake Va. is where Calvin was seen.
Greater Lakes Mental Health in Lakewood; Darrin was seen.

18. Please attach documents which support the claim's allegations.

19. I claim damages from the City of Tacoma in the sum of \$ 200,000 + Court Costs.

This Claim form must be signed by the Claimant, a person holding a written power of attorney from the Claimant, by an attorney admitted to practice in Washington State on the Claimant's behalf, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Calvin B. Clauke 26 OCT 2010 8436 East G ST, Tacoma, Pierce
Signature of Claimant Date Place (residential address, city and county)

MAR 03 2011

**TACOMA CITY ATTORNEY
CIVIL DIVISION**

CALVIN B. CLARK, Individually,

Plaintiff,

Case No: 11-2-05714-9

v.

SUMMONS

THE CITY OF TACOMA, a Municipal Corporation; TACOMA POLICE DEPARTMENT; and JOHN DOE TACOMA POLICE OFFICERS 1-5,

Defendants.

1 one where Plaintiffs are entitled to what they ask for because you have not responded. If you
2 serve a Notice of Appearance on the undersigned attorney, you are entitled to notice before a
3 default judgment may be entered.

4 You may demand that the Plaintiff file this lawsuit with the court. If you do so,
5 the demand must be in writing and must be served upon the Plaintiff. Within fourteen (14) days
6 after you serve the demand, the Plaintiff must file this lawsuit with the court, or the service on
7 you of this Summons and Complaint will be void.

8 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
9 that your written response, if any, may be served on time.

10 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State
11 of Washington.

12 Dated this 21st day of January, 2011.

13
14 LAW OFFICE OF
15 GREGORY A. WILLIAMS, P.S., INC.

16 BY: s/Gregory A. Williams
17 Gregory A. Williams, WSBA #35505
18 Attorney for Plaintiff
19
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24 SUMMONS - Page 2 of 2

LAW OFFICE
OF
GREGORY A WILLIAMS, PS, INC
ATTORNEY AND COUNSELOR AT LAW
1315 So. L Street ♦ Tacoma, WA 98405
(253) 396-9000 ♦ Fax (253) 396-9005
W S B A #35505
www.gawlaw.org

RECEIVED**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY**

January 24 2011 2:29 PM

KEVIN STOCK
COUNTY CLERKMAR 03 2011
TACOMA CITY ATTORNEY
CIVIL DIVISION

VIA
GREG
WILLIAMS
OFFICE
3.20
Service Accepted
at Court
C. J. VAN
CLARK
V.
CDT

No. 11-2-05714-9

ORDER SETTING CASE SCHEDULE

Type of case: TTO
Estimated Trial (days): 7
Track Assignment: Complex
Assignment Department: 21
Docket Code: ORSCS

Confirmation of Service	3/7/2011
Confirmation of Joinder of Parties, Claims and Defenses	7/25/2011
Jury Demand	8/1/2011
Status Conference (Contact Court for Specific Date)	Week of 9/5/2011
Plaintiffs/Petitioner's Disclosure of Primary Witnesses	10/17/2011
Defendant's/Respondent's Disclosure of Primary Witnesses	11/14/2011
Disclosure of Rebuttal Witnesses	2/27/2012
Deadline for Filing Motion to Adjust Trial Date	3/19/2012
Discovery Cutoff	5/7/2012
Exchange of Witness and Exhibit Lists and Documentary Exhibits	5/28/2012
Deadline to file Certificate or Declaration re: Alternative Dispute Resolution (PCLR 16 (c)(3))	6/11/2012
Deadline for Hearing Dispositive Pretrial Motions	6/11/2012
Joint Statement of Evidence	6/11/2012
Pretrial Conference (Contact Court for Specific Date)	Week of 7/2/2012
Trial	7/23/2012 9:00

Unless otherwise instructed, ALL Attorneys/Parties shall report to the trial court at 9:00 AM on the date of trial.

NOTICE TO PLAINTIFF/PETITIONER

If the case has been filed, the plaintiff shall serve a copy of the Case Schedule on the defendant(s) with the summons and complaint/petition: Provided that in those cases where service is by publication the plaintiff shall serve the Case Schedule within five (5) court days of service of the defendant's first response/appearance. If the case has not been filed, but an initial pleading is served, the Case Schedule shall be served within five (5) court days of filing. See PCLR 1.

NOTICE TO ALL PARTIES

All attorneys and parties shall make themselves familiar with the Pierce County Local Rules, particularly those relating to case scheduling. Compliance with the scheduling rules is mandatory and failure to comply shall result in sanctions appropriate to the violation. If a statement of arbitrability is filed, PCLR 1 does not apply while the case is in arbitration.

Dated: January 24, 2011



Judge FRANK CUTHBERTSON
Department 21